

# **Indiana Department of Environmental Management**

**Lori F. Kaplan, Commissioner**

*Text as prepared for:* Fort Wayne Chamber of Commerce Environmental Committee

*Date presented:* November 11, 2001, 11:05-11:30AM

*Location:* Fort Wayne

*(Text does not include verbatim comments)*

---

## **IDEM and Business: Developing a Partnership**

### **Introduction**

- I would like to thank the Greater Fort Wayne Chamber of Commerce and Brian Bergsma for the opportunity to speak with you today.
- It's my pleasure to discuss the progress the Indiana Department of Environmental Management is making in protecting Indiana's environment while also ensuring the continued business and economic growth of our communities.
- I don't know about you, but when I'm about to hear a speaker, I hope that I am not suddenly overwhelmed with a case of the MEGO factor.
- You know what I'm referring to, the dreaded "My Eyes Glaze Over" syndrome!
- But I think that today's program is an incredible opportunity for me to explain what IDEM does and for you to get to know how we operate.
- For the next few minutes, I'd like to discuss a number of issues that are relevant to business in northeast Indiana.
- IDEM programs that help business with environmental compliance.
- New rules recently adopted that impact business.
- Compliance issues and introduction of compliance staff.

### **IDEM: Here to Help**

- First of all, I invite you to take advantage of IDEM and its staff to assist you with your environmental issues.
- One of the goals of our agency is to develop partnerships with industries and residents of our state.
- We have a staff of about 900 that can provide expert technical assistance and guidance on air, water and land quality issues.

- We also have a number of services and programs that can help northeast Indiana's manufacturing, service and consulting businesses.
- IDEM's staff can help in your economic development ventures or business expansions by providing **guidance in redeveloping brownfields**.
- As part of the Office of Land Quality, the Brownfields Section is a very important piece of the agency.
- Brownfields are abandoned or inactive commercial or industrial properties that have complications with expansion or redevelopment because of actual or perceived contamination.
- We can offer assistance and environmental assessments to help with any brownfields in your communities and make these areas valuable once again.
- As a matter of fact, Fort Wayne is home to one very successful brownfields redevelopment.
- The new arts building at St. Francis University sits on land that once housed an abandoned bulk petroleum distribution and refinery facility.
- In a partnership with the city of Fort Wayne, the university purchased a portion of the property and received an Indiana Brownfields Site Assessment Grant.
- Based on the findings of the assessment, the university entered the property into IDEM's Voluntary Remediation Program and proceeded with the redevelopment of the site.
- What was once an abandoned site is now a vibrant facility with classrooms and exhibition halls.
- A few moments ago, I referred to the **Voluntary Remediation Program**. This program, which is offered by IDEM's Office of Land Quality, offers assistance to property owners with possible contamination on site.
- The VRP program provides a mechanism for site owners or operators to voluntarily enter into an agreement with IDEM to cleanup the contaminated property.
- When the cleanup is successfully completed, IDEM issues a Covenant Not to Sue to the cleaned up property. These documents provide assurance that the remediated areas will not become the subject of future IDEM enforcement action.
- The voluntary nature of the VRP benefits owners, real estate purchasers, lending institutions and developers.

### **Issues Affecting the Fort Wayne area.**

- Now I'd like to take this opportunity to discuss with you some issues, that as members of the Fort Wayne area business community, will be of interest.

## **Nonattainment Redesignation**

- One of the major environmental issues facing Fort Wayne area business is the concern about the region's air quality and the **possible redesignation of the area to nonattainment for the pollutant ozone**.
- An area is considered to be in attainment when its air quality meets all National Ambient Air Quality Standards. Nonattainment is a designation given to an area that is in violation of one of the NAAQS.
- Let me stress that the Fort Wayne area continues to meet the one-hour standard for ozone.
- **The one-hour standard is the health-based standard for ozone. It is 125 ppb measured over one hour.** When a monitor in an area exceeds the standard more than three times over a three-year period, the area has violated the standard.
- However, with the new eight-hour standard adopted by the U.S. Environmental Protection Agency in 1997, the region has a challenge ahead of it. The new standard is stricter and more protective of human health than the one-hour one.
- **The eight-hour standard is based on 85 ppb measured over eight hours.** An area is in violation of the standard if its fourth highest eight-hour reading, when averaged over a three-year period, is equal to or exceeds 85 ppb.
- The eight-hour standard will ensure fewer cases of aggravated asthma attacks, a decrease in hospital and emergency room visits for asthma-related illnesses and help lead to improved immune system defenses, which will result in fewer cases of emphysema and bronchitis.
- Additionally, EPA's research suggests that this new standard will lead to an increase in worker productivity as a direct result of less missed workdays for illnesses related to ground-level ozone.
- Areas - like Fort Wayne - are currently required to monitor for the eight-hour standard, but the EPA is not allowed to implement it. This is the result of a court challenge by industry and some states, not including Indiana. The court upheld the eight-hour standard, but remanded the implementation of the standard to EPA for revision. The standard becomes enforceable when the court approves the revised implementation plan.
- **Data collected by IDEM's Office of Air Quality has shown that the Fort Wayne area does not meet the new eight-hour standard.** This means that when the EPA formally receives approval to implement the standard and it becomes enforceable, the process of designating the area nonattainment will take place.
- So what does this mean for the Fort Wayne area?

- If redesignated as nonattainment, we will need to work together to develop a plan to reduce emissions so that air quality improves.
- Types of measures taken by some areas to improve air quality include asking existing facilities to retrofit their sources with pollution control equipment or make other process changes to reduce emissions. An example would be requiring a facility that uses coatings in its process, to use coatings with lower concentrations of volatile components.
- Also, every new source in Indiana is required to install Best Available Control Technology. This means that the new source has to install controls that perform as well as the best controls anyone else with a similar source has done in the country, unless a valid argument is made that the cost of these controls is prohibitive.
- In nonattainment areas, however, controls for new sources go further. New sources are required to meet the "lowest achievable emission rate," which does not allow for consideration of cost. This means no matter how much the cost, the lowest achievable emission rate must be met by a new source locating to a nonattainment area.
- New sources also have to offset any potential emissions by finding available emissions reductions that have occurred in the area so there is no net increase of emissions.
- For example, an existing source whose operating below their permitted emissions level can transfer a portion of their allowed emissions to the new source.
- Other measures taken include the use of cleaner fuel in some areas and vehicle inspection and maintenance programs
- EPA has not decided whether any of these measures will automatically apply in an area designated as nonattainment for the eight-hour standard.
- For many areas in Indiana, the Nitrogen Oxides Reduction Rule may be the key rule necessary to reduce ozone enough to meet the eight-hour standard.

### **Nitrogen Oxides Reduction Rule (also called NO<sub>x</sub> rule)**

- The Fort Wayne area isn't the only region facing the possibility of redesignation to nonattainment. The Indianapolis area, the South Bend/Elkhart area and the Evansville area are as well.
- In order to address this issue, the Office of Air Quality developed one of the most important environmental rules in IDEM history.
- This major rule was developed to help not only the Fort Wayne area, but also the rest of the state and our neighbors to the east. **The Indiana Nitrogen Oxides Reduction Rule**, was adopted by the Air Pollution Control Board in June and approved in late September by EPA.

- Nitrogen oxide is a precursor necessary for the formation of ozone. By reducing it, we reduce the potential for high levels of ozone and, in return, reduce violations of the ozone standard during the summer months.
- This rule is geared to reduce the amount of nitrogen oxide emissions statewide by 31 percent by 2004.
- The NOx rule applies to three types of industrial operations:
  - electric utility boilers larger than 25 watts (there are 94 in Indiana at 27 utility plants; 0 are located in NE Indiana);
  - large industrial boilers with capacities greater than 250,000,000 BTU/hour (there are 52 units at 10 plants; 0 are located in NE Indiana);
  - and cement kilns (there are 8 kilns at 4 plants; 0 are located in NE Indiana). **(There are currently no facilities in the Fort Wayne area that are affected by the NOx rule. However, the rule impacts this area because of any future development, the threat of nonattainment and because of the fact that ozone is a transport pollutant.)**
- For the utilities, the rule requires a 65 percent reduction from their 1995 emission levels. For industrial boilers, the reduction is 60 percent and for cement kilns, 30 percent.
- **This rule also includes a cap and trade program.** Companies are given a specific number of allowances and are allowed to buy, sell or trade them as long as they have enough allowances to cover the amount of tons emitted throughout the year.
- This program allows participating facilities to emit one ton of nitrogen oxide for each "allowance" the company holds.
- The NOx rule also provides **incentives for energy efficiency** and renewable energy projects.
- Companies who implement highly efficient methods of generating electricity, projects that reduce the demand for electricity and projects that use renewable energy sources such as solar and wind power will receive additional allowances from a setaside budget that amounts to two percent of the available allowances budget.
- **So how does this rule affect the prospect of new development in Northeast Indiana?**
- Economic development should not be impacted by the rule. All the states surrounding Indiana are developing similar rules, so there will be an even playing field for industry.
- If anything, the rule will increase opportunities for economic development because it not only works to ensure that Indiana is in compliance with the National Ambient Air Quality Standards for ozone, it provides companies incentives to encourage energy efficiency and clean energy.

## **Groundwater Quality Standard Rule**

- Another major accomplishment of the agency this year, and with much fanfare I might add, was the adoption of the Ground Water Quality Standards Rule, the first such rule in the state's history.
- The rule sets standards that potentially affect all facilities, practices and activities that impact the groundwater of the state.
- About 60 percent of Indiana's residents rely on ground water for their drinking water supply.
- A few of the major elements of the rule include placing protection in the form of numeric and narrative ground water standards for all drinking water and other wells.
- The rule also establishes numeric and narrative criteria to guide IDEM, the Department of Natural Resources, the Department of Health, the Office of the State Chemist and the Office of the Fire Marshal in regulating activities that may affect the quality of ground water and direction to prevent and minimize any future contamination of ground water.
- Establishes a statewide benchmark for measuring the quality of ground water.
- It also recognizes the existence of certain conditions or practices that need to be addressed individually. For example, agricultural areas, historically contaminate ground water and ground water remediations.
- The adoption of this rule is a major benchmark in the state's ongoing efforts to ensure Hoosiers safe, clean drinking water.
- These rules - the NOx and the groundwater rule - were major undertakings of the agency. To have both adopted this year... well to say we were excited would be an understatement. The Groundwater Quality Standard Rule itself has been in the works for twelve years!

## **Compliance**

- What would rules be if we didn't have to follow them?
- IDEM strives to provide technical assistance and guidance to industry and residents with their environmental issues. We also have sections of the agency that work with our industrial and business partners to ensure compliance.
- Being responsible for the protection of Indiana's environment is no small task and the responsibility that goes along with being an employee of IDEM is not one that is taken lightly.
- A shining example of this commitment is IDEM's 200 plus staff members who deal with compliance issues.
- Our compliance staff is responsible for ensuring that every permit we issue and every rule we have jurisdiction over is followed.

- They also help with technical assistance and guidance. A couple of tools that business can use to ensure compliance with state and federal environmental regulations include the IDEM Permit Guide and the Compliance and Technical Assistance Program.
- The IDEM Permit Guide is a plain English guide that can help you determine what permits could apply to your development project and whom to contact with questions regarding environmental regulatory requirements and compliance.
- The Compliance and Technical Assistance program, better known as **CTAP**, offers confidential compliance and technical assistance to new or existing facilities.
- The program conducts educational outreach programs on compliance, performs confidential site visits, confidential phone assistance and helps businesses develop recognition programs, compliance assistance manuals and fact sheets.
- It's not the easiest job and it takes expertise and professionalism to make sure that the laws set forth by federal and state government are being followed. After all, laws are there to protect our environment.
- To help describe the ins and outs of compliance, I'm joined today by some of our compliance staff including:
  - Jay Patterson, Section Chief for Air Compliance, Section Two, Office of Air Quality;
  - Bruce Kizer, Section Chief for Industrial Compliance Waste, Section Two, for the Office of Land Quality;
  - and Debbie Dubenestky, acting Section Chief, Pre-treatment and Operators Assistance for the Office of Water Quality.
- These folks will provide you with what IDEM's compliance sections look for in regards to their respective office and what you, as business people, can expect from them.

## Conclusion

- So as I give way to these staff, I'd like to thank you for the opportunity to speak with you.
- I also want to take this opportunity to reiterate a statement I made earlier. I invite you to look to IDEM for assistance with your environmental issues.
- Our agency is here to serve you and provide you with guidance and to ensure that our state continues its progress toward a cleaner, healthier Indiana.